



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/799,175

03/12/2004

Hisayoshi Mizuhara

021964/337034

9524

826

7590

03/04/2009

ALSTON & BIRD LLP

BANK OF AMERICA PLAZA

101 SOUTH TRYON STREET, SUITE 4000

CHARLOTTE, NC 28280-4000

EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

MAIL DATE

DELIVERY MODE

03/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/799,175	Applicant(s) MIZUHARA ET AL.	
	Examiner JAMES R. BRITAIN	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claim 4 rewritten into claim 1 is withdrawn in view of a review of the specification as to the meaning of the term “concave” as it relates to the previously applied art. Rejections based on this interpretation follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasko (US 4090279) in view of Schwendt (US 3922761).

Wasko (figures 2, 3) teaches bottom end stop structure in which fastener elements are attached to fastener tapes wherein there are plural ribs 36 that are part of an inner portion and an outer portion is formed by the rim 38 of a thicker dimension.

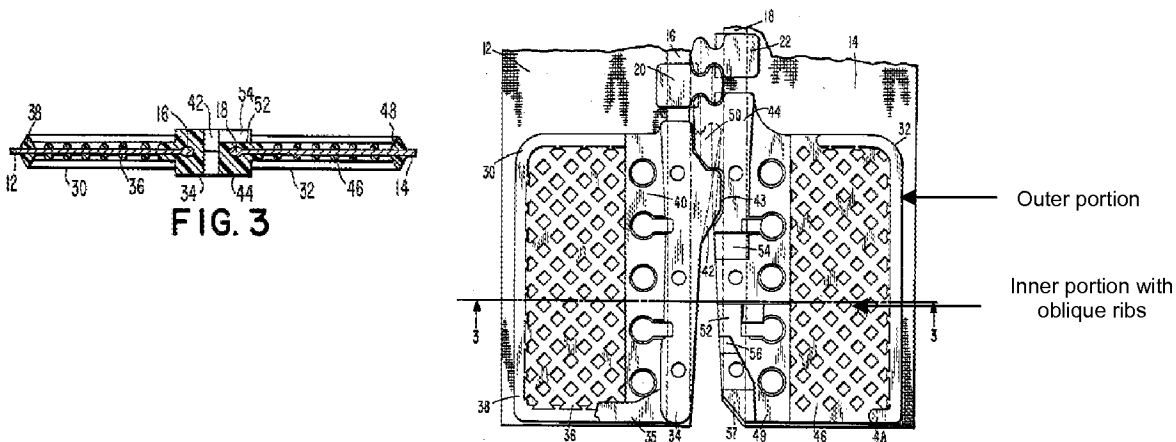
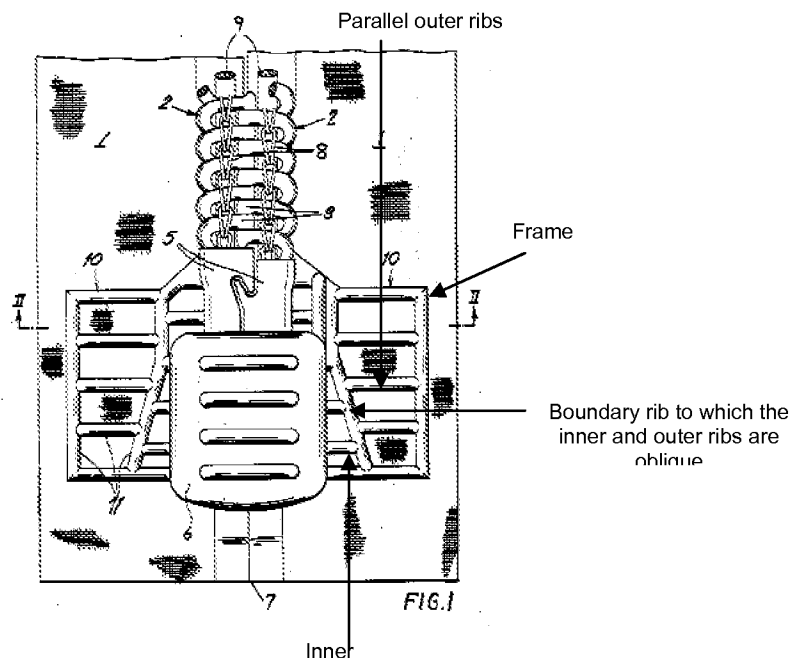


Figure 2

Claim 1 has been amended to call for concave portions formed among the ribs. The specification on page 7, ¶2, lines 8-11 defines concave portions by "Further, preferably, a concave portion is formed in, for example, a through-hole shape or a concave shape having a thin bottom portion, among the ribs in the inside portion of the reinforcement portion." The through-hole shape between the ribs down to the tape is clearly shown by Wasko and thus Wasko includes this claim limitation.

The difference is that the outer portion is only the rim and lacks a set of parallel ribs. However, Schwendt (figure 1) teaches that in the environment of an inner portion with ribs oblique to a boundary structure that it is desirable to further have an outer portion with parallel ribs oblique to a portion of the boundary rib so as to better stabilize the ribs and improve the strength of the bottom stop.



It would have been obvious to modify the bottom stop of Wasko so that the outer portion is a set of parallel ribs in view of Schwendt (figure 1) teaching that in the

environment of an inner portion with ribs oblique to a boundary structure that it is desirable to further have an outer portion with parallel ribs oblique to a portion of the boundary rib so as to better stabilize the ribs and improve the strength of the bottom stop. As to claim 2, Wasko as indicated above has an outer portion in the form of the rim that is thicker than the inner portion. As to claim 3, the outer configuration of the ribs of the applied references is rounded in the form of mounds in cross-section and thus has a rounded configuration when also viewing the intersection of the ribs in plan view. Claim 3 is broad. In regard to claim 5, the bottom vertex in the resultant diamond-shaped gap formed between the ribs of the device of Wasko defines a dented portion facing the top end of the structure. As to the placement of the ribs relative to the end of the tape, Schwendt suggests distancing the ribs further from the end of the tape than the bottom of the pin box and renders such structure obvious. As to claim 9, the injection molding process inherently adheres the yarns of the tape together. In regard to claim 10, applicant was given Official Notice in the previous office action that such penetration is common in an injection molding environment and it would have been obvious to have penetration of the resin into the tapes. Since there has been no traversal of the Official Notice, this is taken as recognition by applicant that the well known penetration of the tapes by the plastic during the molding process is a well understood phenomenon and is made final. As to claim 11, the particular choice of dimensions is a matter of scaling the teachings of Wasko to the appropriate environment of use and would have been obvious.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "arc-like" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "-like"), thereby rendering the scope of the claim(s) unascertainable. The expression "-like" has taken an otherwise definite term "arc" and made it unclear.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. BRITAIN whose telephone number is (571)272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James R. Brittain/
Primary Examiner, Art Unit 3677

JRB